



February 22, 2000

Mr. Jay Garrett  
City Attorney  
City of Greenville  
P.O. Box 1049  
Greenville, Texas 75403-1049

OR2000-0641

Dear Mr. Garrett:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 133206.

The City of Greenville (the “city”) received a request for information relating to a former police officer. You inform this office that the request subsequently was narrowed to one file, which you have submitted for our review. You claim that the requested file includes information that is excepted from disclosure under section 552.102 of the Government Code. We have considered the exception you claim and have reviewed the information you submitted.

Section 552.102 protects from required public disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy[.]” Gov’t Code § 552.102(a). The protection that section 552.102(a) affords to personnel records generally corresponds to that which section 552.101 provides to information made confidential by common law privacy. See *Hubert v. Harte-Hanks Tex. Newspapers, Inc.*, 652 S.W.2d 546 (Tex. App. – Austin 1983, writ ref’d n.r.e.). Information may be withheld under section 552.101 in conjunction with common law privacy when (1) it is highly intimate and embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and (2) there is no legitimate public interest in its disclosure. *Industrial Found. v. Texas Ind. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), cert. denied, 430 U.S. 931 (1977). The matters considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* include sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimacy, psychiatric treatment, attempted suicide, and

injuries to reproductive organs. *See* 540 S.W.2d at 683. Public employee privacy under section 552.102 is considerably narrower than common law privacy under section 552.101, however, because of the greater public interest in the disclosure of information relating to public employees. *See, e.g.*, Open Records Decision Nos. 473 (1987), 470 (1987), 444 (1986), 423 (1984). Generally speaking, section 552.102 protects employee information from disclosure only when the information in question reveals “intimate details of a highly personal nature.” *See* Open Records Decision Nos. 315 (1982), 298 (1981), 284 (1981). Having reviewed the submitted records, we conclude that they generally do not represent information that is considered to be confidential under section 552.102. *See, e.g.*, Open Records Decision Nos. 484 (1987), 444 (1986), 418 (1984), 350 (1982). However, we have marked specific segments of the submitted documents that we believe are private under sections 552.101 and 552.102. They must be redacted from the information that you release to the requestor. Additionally, the submitted documents contain information that is protected from public disclosure under section 552.117 of the Government Code. Section 552.117 excepts from disclosure “[i]nformation that relates to the home address, home telephone number, or social security number” of a peace officer, “or that reveals whether the [officer] has family members . . . regardless of whether the officer complies with Section 552.024.” Gov’t Code § 552.117(2). We have marked information that the city must withhold under section 552.117(2). The rest of the submitted information is not excepted from public disclosure under section 552.102.

In summary, only the information that we have designated for redaction is protected from disclosure under sections 552.102 and 552.117 of the Government Code. The rest of the submitted records are not confidential and must be released. This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

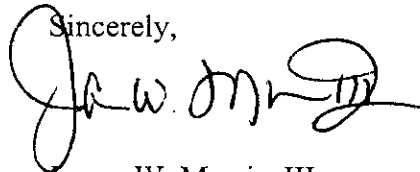
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the

governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,  


James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/ch

Ref: ID# 133206

Encl. Submitted documents

cc: Ms. Debbie A. Knox  
Pittsburg Gazette  
112 Quitman Street  
Pittsburg, Texas 75686  
(w/o enclosures)